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2 **OFFICE OF THE GOVERNOR OF GUAM**
3 Post Office Box 2950
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7 **MICHAEL A. PANGELINAN, ESQ.**
8 **CALVO AND CLARK, LLP**
9 Attorneys at Law
655 South Marine Corps Drive, Suite 202
10 Tamuning, Guam 96911
11 Telephone: (671) 646-9355
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13 Attorneys for the
14 Honorable Felix P. Camacho
15 Governor of Guam

11 IN THE UNITED STATES DISTRICT COURT
12 DISTRICT OF GUAM

13 THE GOVERNMENT OF GUAM, by and
14 through the ATTORNEY GENERAL OF
GUAM

15 Plaintiff,

16 vs.

17 FELIX P. CAMACHO, in his official capacity
18 as Governor of Guam,

19 Defendant.

Civil Case No. 04-00035

**DECLARATION OF LOUIE J. YANZA
IN SUPPORT OF OBJECTION TO
SUGGESTION OF REFERRAL TO
UNITED STATES MAGISTRATE
JUDGE**

20 I, LOUIE J. YANZA, declare that:

21 1. I am the Special Prosecutor appointed by the Governor to assist in the
22 prosecution of *People of Guam v. Moylan*, Superior Court of Guam Case No. CM864-03. Attached
23 as Exhibit "A" is a true and correct copy of the letters by Governor Camacho appointing me as a special
24 prosecutor in *People v. Moylan*.

25 2. *People v. Moylan*, is still an active case before the Superior Court of Guam, for
26 which a trial is scheduled.

27 3. Attached as Exhibit "B" is a true and correct copy of the Defendant's Witness
28 List filed in *People v. Moylan*.

DECLARATION OF LOUIE J. YANZA IN SUPPORT OF OBJECTION TO
SUGGESTION OF REFERRAL TO UNITED STATES MAGISTRATE JUDGE
B040714.382-0007.CT (LJY Declaration).wpd

ORIGINAL

4. On November 17, 2003, *People v. Moylan* was assigned to then Superior Court Judge Joaquin V.E. Manibusan, Jr. Attached as Exhibit "C" is a true and correct copy of the order assigning *People v. Moylan* to Judge Manibusan.

5. On November 21, 2003, the Government filed a request that Judge Manibusan recuse himself from presiding over the proceedings in *People v. Moylan*. Attached as Exhibit “D” is a true and correct copy of the Government’s Request for Recusal filed in *People v. Moylan*.

6. Subsequent to the filing of the recusal motion, my office contacted the Superior Court of Guam to inquire whether the matter was still before Judge Manibusan. We were advised that the matter had been reassigned to another judge.

7. Upon information and belief, the reassignment of *People v. Maylan* from Judge Manibusan to another judge was based upon the Government's request to recuse Judge Manibusan.

I declare under penalty of perjury under the laws of Guam (6 G.C.A. § 4308) that the foregoing is true and correct.

Executed this 14th day of July, 2004, in Tamuning, Guam.

LOUIE J. YANZA

DECLARATION OF LOUIE J. YANZA IN SUPPORT OF OBJECTION TO
SUGGESTION OF REFERRAL TO UNITED STATES MAGISTRATE JUDGE
B040714.382-0007.CT (LJY Declaration).wpd

EXHIBIT “A”



Office of the Governor of Guam

Adelup, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: gov@guam.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

01 DEC 2003

Louie J. Yanza
115 Hesler Place, Ground Floor
Governor Joseph Flores Building
Hagåtña, Guam 96910-5004

Re: Appointment as Special Prosecutor

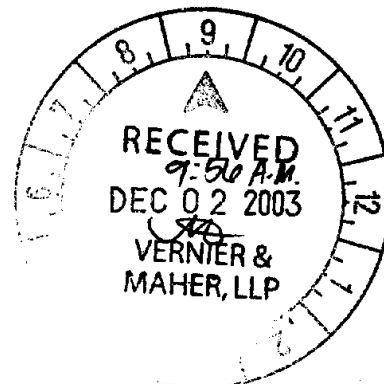
Dear Mr. Yanza:

I am hereby reaffirming your appointment of October 20, 2003 to act as special prosecutor in the event Special Prosecutor Paul Vernier is off-island and unable to handle any necessary court appearances or other matters which may arise in the Douglas Moylan criminal case presently before the Superior Court.

Your appointment as special prosecutor is effective until otherwise removed by the court, yourself, or me.

Sincerely yours,

Felix P. Camacho
I Maga' Låhen Guåhan
Governor of Guam





Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

20 OCT 2003

Louie J. Yanza
115 Hesler Place, Ground Floor
Governor Joseph Flores Building
Hagåtña, Guam 96910-5004

Dear Mr. Yanza:

In the event Attorney Paul Vernier is off-island and unable to handle any necessary court appearances or other matters which may arise in the Douglas Moylan criminal case presently before the Superior Court, I hereby appoint Attorney Louie Yanza to act in his stead as special prosecutor.

Please contact Attorney Paul Vernier concerning this matter.

Sincerely yours,

Felix P. Camacho
I Maga' Låhen Guåhan
Governor of Guam

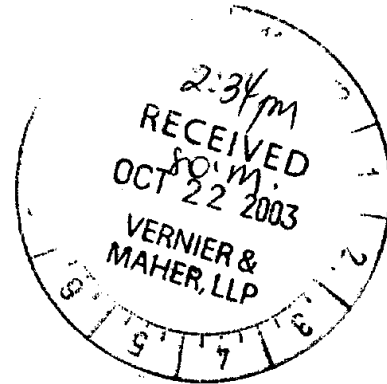


EXHIBIT “B”

SUPERIOR COURT
OF GUAM

BERMAN O'CONNOR MANN & SHKLOV
Suite 503, Bank of Guam Building
111 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone (671) 477-2778
Facsimile (671) 477-4366

CLERK OF COURT

BY: _____

**IN THE SUPERIOR COURT OF GUAM
HAGÁTÑA, GUAM**

PEOPLE OF GUAM,

Plaintiff,

vs.

DOUGLAS B. MOYLAN,

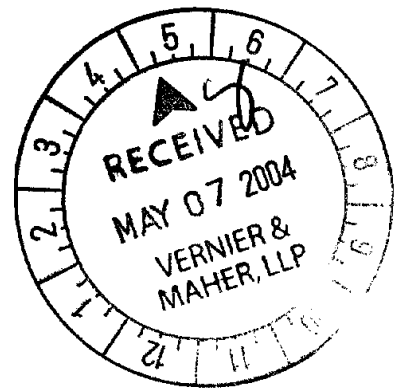
Defendant.

Superior Court Case No. CM864-03

WITNESS LIST

The following are a tentative list of witnesses who may be called in the case in chief of the undersigned counsel in the above captioned case:

1. Douglas Moylan;
2. Deborah Crisostomo;
3. Doris Leon Guerrero;
4. Teresita Crisostomo;
5. Nichole Crisostomo;
6. Gene Crisostomo;
7. Donna Crisostomo;
8. Glenn Crisostomo;
9. David Crisostomo;
10. Sandy Crisostomo;



Page 1

Witness List

Superior Court of Guam Case Number CM864-03

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11. Robert Crisostomo;
 12. Annabelle Estrada;
 13. Richard Moylan;
 14. Jane Moylan;
 15. Brandon Moylan;
 16. Angela Moylan;
 17. Nathan Crisostomo;
 18. Catherine Leon Guerrero;
 19. Felix Leon Guerrero;
 20. Lillian Leon Guerrero;
 21. Curtis Van de veld;
 22. Jeannette Van de veld;
 23. Jeff Moylan;
 24. Scott Moylan;
 25. Brian Moylan;
 26. Trisha Moylan;
 27. Betty-Ann Burns;
 28. Cathy Leon Guerrero;
 29. Custodian of Records, Santa Clara Protective Services;
 30. Kim Santos;
 31. Clerk of Court, Superior Court of Guam;
 32. Peter Santos;

Page 2

Witness List

Superior Court of Guam Case Number CM864-03

- 1
- 2 33. Expert to be Determined (computer / cyber specialist);
- 3 34. Expert to be Determined (family violence);
- 4 35. Chief Reporter, Superior Court of Guam;
- 5 36. David Lubofsky;
- 6 37. David J. Highsmith;
- 7 38. Custodian of Records, Guam Police Department;
- 8 39. Photographer, Guam Police Department;
- 9 40. Erillio Espinola;
- 10 41. Vince Duenas, M.D.;
- 11 42. Jesse Gogue;
- 12 43. Mrs. Gogue (Jesse Gogue's wife);
- 13 44. Kenneth Cruz;
- 14 45. Kurt Dierking;
- 15 46. Honorable Joaquin V.E. Manibusan, Jr.;
- 16 47. Investigator Montgomery;
- 17 48. Robert E. Weeks; Baptist Minister;
- 18 49. Custodian of Records, Continental Airlines;
- 19 50. Winnie Santos;
- 20 51. Winnie Aguon Flores;
- 21 52. John S. Bamba;
- 22 53. Felix P. Camacho;
- 23 54. David Mair;
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- 55. David Lujan;
- 56. John Bagoforo;
- 57. Officer J.A. Perez;
- 58. Officer D.A.Q. Santos;
- 59. Officer M.S. Apuron;
- 60. Officer C.C. Chong;
- 61. Officer A. C. Suba;
- 62. Officer A.J. Arriola;
- 63. Officer B.A. Brantley;
- 64. Officer J.T. Jasmin;
- 65. Officer P.J. Santos;
- 66. Officer Gene Tennessen;
- 67. Officer P.J. Santos;
- 68. Officer B.J. Palomo;
- 69. Officer R.A. Charfauros;
- 70. Officer E.O. Mantanguihan;
- 71. Officer J.L.G. Santos;
- 72. Officer Frankie Smith;
- 73. Officer Kevin Guerrero;
- 74. Officer V.F. Paulino;
- 75. Officer A.J. Kamminga;
- 76. Officer L.C. Ogo;

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77. Officer A. Babauta;

78. Special Agent Kevin J. Howe (Secret Service);

79. Officer T.H. Algier; *and*

79. Nancy Kaser-Boyd.

The undersigned counsel reserves the right to amend and add to this witness list, including
as rebuttal witnesses to witnesses the Part-time Prosecutors may call.

Respectfully submitted this 7th day of May, 2004.

BERMAN O'CONNOR MANN & SHKLOV
Attorneys for Mr. Moylan

BY: _____


MICHAEL J. BERMAN

EXHIBIT “C”

IN THE SUPERIOR COURT OF GUAM

PEOPLE OF GUAM,

Plaintiff

vs.

DOUGLAS B. MOYLAN

Defendant,

Criminal Case No. CM 0864-03

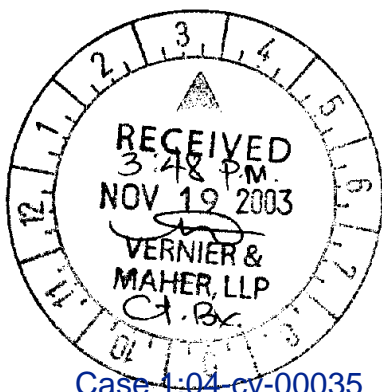
ORDER

IN ACCORDANCE with the Superior Court assignment policy of One Judge-One Defendant/One Family, this Court hereby orders that this case be assigned to the Honorable Joaquin V.E. Manibusan, Jr., who currently has been assigned Case No. DM 536-03.

IT IS SO ORDERED.

Dated this 16th day of November, 2003.

HONORABLE ALBERTO C. LAMORENA, III
PRESIDING JUDGE
SUPERIOR COURT OF GUAM



original on file in the office of the clerk of the Superior Court of Guam
Dated at Hagatña, Guam:

NOV 17 2003

Jacqueline S. C. Tertaje
Deputy Clerk, Superior Court of Guam

EXHIBIT “D”

1 On October 16, 2003, the Defendant filed an ex parte motion to continue the
2 hearings for the motion to dismiss and the arraignment. Judge Maraman denied the
3 ex parte motion, took the motion to dismiss off calendar, and refused to continue the
4 arraignment that was scheduled for October 28, 2003.

5 On October 28, 2003, without any prior notice, the Honorable Alberto C.
6 Lamorena, III, continued the arraignment hearing until November 26, 2003, and
7 scheduled it to take place before himself.

8 On October 29, 2003, the Government requested that Judge Lamorena should
9 recuse himself from participating in any proceedings in this case and this request was
10 granted.

11 On November 17, 2003, the case was then assigned to the Honorable Joaquin
12 V.E. Manibusan, Jr. The Government hereby requests that Judge Manibusan recuse
13 himself from participating in any proceedings in this case.
14

15 **1. Judge Manibusan is a Witness.**

16 One of the issues that must be decided in this case is whether the Defendant
17 made false statements under oath in a proceeding entitled Deborah Crisostomo
18 Moylan, Plaintiff v. Douglas B.K. Moylan, Defendant, Superior Court of Guam
19 Domestic Case No. DM0536-03. See, Complaint. This domestic case is pending
20 before Judge Manibusan and he presided over the proceeding where the false
21 statements were made by the Defendant. As such, Judge Manibusan is a witness to
22 the false statements that are at issue in this criminal proceeding and it is inappropriate
23 for him to preside over this criminal action.
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1 **2. Judge Manibusan Presided Over the Defendant's First Divorce Proceeding.**

2 One of the witnesses in this case is Doris Leon Guerrero. She will testify
3 regarding the relationship between her and the Defendant. Judge Manibusan
4 presided over the domestic proceeding between Ms. Leon Guerrero and her former
5 husband, the Defendant. In so doing, Judge Manibusan, as the trier of fact in the
6 divorce proceeding, was required to form an opinion as to the truthfulness of the
7 allegations of Ms. Leon Guerrero. As such, Judge Manibusan's impartiality in this
8 criminal proceeding might reasonably be questioned. The Government is entitled to a
9 trial judge that has not already been tainted by hearing testimony from the material
10 witnesses about the allegations at issue in this case.
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13 **3. Judge Manibusan is Presiding Over the Defendant's Current Divorce**
14 **Proceeding.**

15 One of the witnesses in this case is Deborah Moylan. She will testify regarding
16 the relationship between her and the Defendant. Judge Manibusan is presiding over
17 the domestic proceeding between Mrs. Moylan and her husband, the Defendant. An
18 OSC hearing has already been conducted in the domestic proceeding wherein Mrs.
19 Moylan testified. Judge Manibusan, as the trier of fact in the divorce proceeding, was
20 required to form an opinion as to the truthfulness of the allegations of Ms. Leon
21 Guerrero. As such, Judge Manibusan's impartiality in this criminal proceeding might
22 reasonably be questioned. The Government is entitled to a trial judge that has not
23 already been tainted by hearing testimony from the material witnesses about the
24 allegations at issue in this case.
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1 **4. Judge Manibusan Order in the Current Divorce Proceeding has been**
2 **Criticized.**

3 Judge Manibusan issued an Order in the domestic proceeding with Mrs.
4 Moylan that permits the Defendant to have a firearm at home in the evening under
5 certain circumstances. This Order was criticized by the United States Attorney in a
6 letter dated October 17, 2003. The public might conclude that Judge Manibusan will
7 make decisions in the criminal case to justify the issuance of his Order in the domestic
8 proceeding. Furthermore, the public might conclude that Judge Manibusan has
9 already formulated an opinion as to whether the Defendant should be permitted to
10 bear arms, which will be an issue to be discussed at the Defendant's arraignment. As
11 such, the impartiality of Judge Manibusan might reasonably be questioned.

12
13 **CONCLUSION**

14 Because his Honor may be called as a material witness in this case, and in
15 order to avoid the appearance of impropriety under the circumstances, the People
16 respectfully request his Honor to recuse himself from further sitting on this case.

17 Respectfully submitted this 21st day of November, 2003.

18 **PEOPLE OF GUAM**

19
20 BY:

21 
22 LOUIE J. YANZA, Duly Appointed
23 Special Prosecutor
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